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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/496,794	02/02/2000	John T. Moore	MICT-0005-D1-US	6700

7590

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Trop Pruner & Hu  
8554 Katy Freeway  
Suite 100  
Houston, TX 77024

EXAMINER

OWENS, DOUGLAS W

ART UNIT

PAPER NUMBER

2811

DATE MAILED: 03/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/496,794

Applicant(s)

MOORE ET AL.

Examiner

Douglas W Owens

Art Unit

2811

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 26-31,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-31,33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \*

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 4, 2002 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 26-30 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent No. 6,355,540 to Wu.

Regarding claim 26, Wu teaches a semiconductor structure, comprising:

- a support (2);
- a first material (4) having a first etch rate;
- a trench (10) formed through the support and first material; and
- a filler material (16) in the trench.

Wu does not explicitly teach a trench filler material that has an etch rate that is less than 1.2 times the first etch rate. The trench filler material taught by Wu would have inherently had an etch rate that is less than 1.2 times the first etch rate since it is the same material, formed using the same method (Col. 3, lines 44-50 and Col. 4, lines 44-53).

Wu does not teach a semiconductor structure, wherein the first material and the trench filler material are etched simultaneously. This is considered a product-by-process limitation. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Regarding claim 27, Wu teaches a semiconductor device, wherein the first material includes silicon dioxide. Wu does not teach a semiconductor device, wherein the first material includes silicon dioxide deposited from tetraethylorthosilicate or a silane and oxygen system. This is considered a product-by-process limitation as explained above.

Regarding claim 28, Wu teaches a semiconductor device, wherein the first material includes CVD silicon dioxide (Col. 3, lines 44-50).

Regarding claim 29, Wu teaches a semiconductor device, wherein the trench filler material includes silicon dioxide from tetraethylorthosilicate (Col. 4, lines 44-49).

Regarding claim 30, Wu teaches a semiconductor device, wherein trench filler material includes CVD silicon dioxide.

4. Claims 31, 33 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent No. 6,271,561 to Doan.

Regarding claim 31, Doan teaches a semiconductor device, comprising:  
a trench filler material (26); and  
a second material (42) deposited on the trench filler material.

Doan does not explicitly teach a device, wherein the etch rate of the second material is less than 1.2 times the etch rate of the trench filler material. The trench filler material taught by Doan would have inherently had an etch rate that is less than 1.2 times the first etch rate since it is the same material, formed using the same method (Col. 5, lines 4-9 and Col. 6, lines 30-35).

Doan does not teach annealing the second material at a temperature of at least 900 degrees Celsius. This is considered a product-by-process limitation as discussed above.

Regarding claim 33, Doan teaches a semiconductor device, wherein the second material and the trench filler material include silicon dioxide.

Regarding claim 34, Doan does not teach a semiconductor device, wherein the second material is thermally grown. This is considered a product-by-process limitation, as discussed above.

***Response to Arguments***

5. Applicant's arguments with respect to claims 26-31, 33 and 34 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas W Owens whose telephone number is 703-308-6167. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on 703-308-2772. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



TOM THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

DWO  
March 25, 2002